

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID DALE McCUE,)	
)	Civil Action No. 2:19-cv-00934
Plaintiff,)	
)	Judge Robert J. Colville
vs.)	
)	Magistrate Judge Lisa Pupo Lenihan
TOWNSHIP OF HANOVER,)	
HANOVER TOWNSHIP POLICE)	
DEPARTMENT, LIVE NATION)	
WORLDWIDE, INC., MICHAEL)	
DHANSE, STAN HENRY,)	
JOHN DOES 1-3, JOCELYN RUSE,)	
and TINA BLACK,)	
)	
Defendants,)	

ORDER OF COURT

Before the Court is the Motion to Dismiss Count XX of Plaintiff's Second Amended Complaint filed by Defendant Live Nation Worldwide, Inc. (ECF No. 63) and the Motion to Dismiss Counts IV, V, and IX of Plaintiff's Second Amended Complaint filed by Defendants Township of Hanover, Hanover Township Police Department, Michael Dhanse, and Stan Henry (ECF No. 65). On April 15, 2020, the Honorable Lisa Pupo Lenihan issued a Report and Recommendation (ECF No. 70) in which she recommended that: 1) Live Nation Worldwide, Inc.'s Motion be denied without prejudice to raising the issue of state action on summary judgment; and 2) the Motion to Dismiss Counts IV, V, and IX be granted. Plaintiff filed timely Objections (ECF No. 73) to Judge Lenihan's Report and Recommendation, objecting specifically to her recommendation that the Motion to Dismiss Counts IV, V, and IX be granted.

The district court must make a *de novo* determination of those portions of the report to which objections are made. 28 U.S.C. § 636(b)(1)(C); *see also Henderson v. Carlson*, 812 F.2d 874, 877 (3d Cir.1987). This Court may accept, reject, or modify, in whole or in part, the findings

or recommendations made by the magistrate judge. The district court judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

Upon review of Judge Lenihan's April 15, 2020 Report and Recommendation, Plaintiff's Objections, the Hanover Township Defendants' Brief in Opposition (ECF No. 74), as well as a review of the entire record in this matter, it is hereby ORDERED as follows:

Plaintiff's Objections to the Report and Recommendation are overruled and the Court approves and adopts the Report and Recommendation in its entirety as the Opinion of the Court. The Motion to Dismiss Counts IV, V, and IX of Plaintiff's Second Amended Complaint (ECF No. 65) is granted, and Counts IV, V, and IX of Plaintiff's Second Amended Complaint are dismissed with prejudice. Live Nation Worldwide, Inc.'s Motion to Dismiss Count XX of Plaintiff's Second Amended Complaint (ECF No. 63) is denied without prejudice to raising the issue of state action on summary judgment. Defendants shall file an answer to the remaining claims set forth in Plaintiff's Second Amended Complaint within twenty-one (21) days.

BY THE COURT:

s/Robert J. Colville
Robert J. Colville
United States District Judge

DATED: May 13, 2020

cc/ecf: All counsel of record